

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:07-CR-107-FL

UNITED STATES OF AMERICA,

v.

MARVIN MAROQUIN-BRAN,

Defendant.

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MEMORANDUM
OPINION

Defendant came before the court upon remand for resentencing February 19, 2010. Upon hearing, the court overruled defendant's objection to application of the sixteen-level sentencing enhancement for prior conviction of a drug trafficking offense pursuant to United States Sentencing Guideline § 2L1.2(b)(1)(A). The court amplifies herein upon its reasons for this determination.

BACKGROUND

Defendant was charged in a one count indictment with illegal re-entry by an alien in violation of 8 U.S.C. § 1326 on September 12, 2007. On November 14, 2007, defendant pleaded guilty. On April 15, 2008, the court determined the appropriate total offense level was twenty-one (21), which resulted in a recommended guidelines range of fifty-seven (57) to seventy-one (71) months imprisonment. The court determined this offense level by applying a sixteen-level enhancement for prior conviction of a drug trafficking offense pursuant to U.S.S.G. § 2L1.2(b)(1)(A). Defendant had a prior conviction in California under a statute which prohibited drug trafficking among other conduct. Adopting the approach used in

United States v. Alvarez-Granados, 228 F. App'x 350 (4th Cir. 2007), this court found the enhancement proper because the California statute *inter alia* prohibited drug trafficking. The court did not give any further consideration to the facts underlying the prior conviction. The court sentenced defendant to fifty-seven (57) months imprisonment.

On November 9, 2009, the Court of Appeals for the Fourth Circuit vacated defendant's sentence and remanded the case for resentencing. The Fourth Circuit held the sixteen-level enhancement was inappropriate when the basis for the enhancement was a prior conviction under a statute that *inter alia* criminalizes drug trafficking, reversing the position of the court taken in Alvarez-Granados. United States v. Maroquin-Bran, No. 08-4464, slip op. at 4 (4th Cir. Nov. 9, 2009). Rather, when confronted with a statute that prohibits trafficking and non-trafficking conduct, the Fourth Circuit held the enhancement is only appropriate if the predicate conviction itself was for a drug trafficking offense. Id. The Fourth Circuit remanded for resentencing in light of its interpretation of § 2L1.2(b)(1)(A).

On remand, defendant urged the court that the sixteen-level enhancement was inappropriate because approved documentation does not establish the underlying behavior which served as a predicate for the California conviction. For the reasons detailed below, the court finds that the sixteen-level enhancement does apply in this instance and the applicable recommended guideline range is fifty-seven (57) to seventy-one (71) months. Because of the additional information before the court regarding defendant's

impermissible conduct while in prison serving the court's sentence,¹ the court concludes a period of incarceration of sixty-three (63) months is an appropriate term of imprisonment.

ANALYSIS

To qualify for the sixteen-level enhancement pursuant to § 2L1.2(b)(1)(A), the defendant must have been deported after a “conviction for a felony that is (I) a drug trafficking offense for which the sentence imposed exceeded 13 months.” A drug trafficking offense is one which prohibits the “manufacture, import, export, distribution, or dispensing of, or offer to sell a controlled substance” or possession with intent to engage in the aforementioned conduct. Id. application note 1. When determining whether a prior conviction warrants the enhancement, “a court must first compare the ‘statutory definition of the prior offense’ to the Guidelines’ definition of a qualifying prior offense.” Maroquin-Bran, slip op. at 6 (quoting Taylor v. United States, 495 U.S. 575, 602 (1990)). If the criminal statute is overbroad and prohibits both qualifying and non-qualifying conduct, the court must evaluate the character of the prior offense to determine whether it supports the enhancement. Id. When considering the character of the prior offense, the court’s inquiry is “limited to the terms of the charging document, the terms of a plea agreement or transcript of colloquy between judge and defendant in which the factual basis for the plea was confirmed by the defendant, or to some comparable judicial record of this information.” Shepard v. United States, 544 U.S. 13, 26 (2005).

¹At sentencing, the Probation Officer stated that defendant has accrued two infractions regarding prohibited substances while in Bureau of Prisons (“BOP”) custody. While BOP custody prohibits the Probation Officer from disseminating copies of this record, both parties were offered opportunity to review defendant’s disciplinary record in the context of the court hearing.

Here, defendant's prior conviction at issue is a violation of California Health & Safety Code § 11360(a). Section 11360 provides, "every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished by imprisonment . . ." Given the breadth of conduct prohibited, not all convictions pursuant to § 11360 would necessarily support the sixteen-level enhancement. For instance, the sale of marijuana would support the enhancement at issue, but transportation of marijuana would not. Maroquin-Bran, slip op. at 6. As the statute prohibits both trafficking and non-trafficking offenses, the court must address the character of the prior offense to determine whether the conviction supports the enhancement.

The court has three Shepard-approved documents or sets of documents before it, copies of which are attached hereto for convenience of reference. These include 1) the criminal information; 2) the abstract of judgment relating to defendant's October 18, 1990, probation revocation;² and 3) the four-page compilation of case records of the Superior Court of California, County of Los Angeles, of or relating to a) defendant's March 9, 1989, arraignment and plea, b) April 6, 1989, sentencing, and c) his subsequent

²This was in relation to defendant's second recorded violation of probation. The document as it pertains to the offense of conviction, is relevant and helpful in deciphering details pertinent to the date of defendant's conviction. The document shows defendant was convicted of the underlying offense on March 9, 1989, which date is not legible in other documentation. Singular reliance on this document for the purpose of determining what conduct defendant admitted to in his guilty plea is misguided, however, to the extent guidance is suggested in the stylization of the crime: "sale/TRANSP MARIJUANA." The abstract is several procedural steps removed and there is a contemporaneous recording of the plea and judgment taken a year and half or so earlier, to which reference can be made. The primary purpose of the later abstract is to record pronouncement of sentence October 18, 1990. From the face of the document generated around October 18, 1990, in light of the record developed in the case, it cannot be found that use of a slash mark and capital letters following that symbol were intended by the generator to emphasize that the plea pertained only to transportation of marijuana, as defendant argues. One also could speculate that the "capitol" function on the keyboard inadvertently was depressed as the typist navigated from "SECTION NUMBER" block to "CRIME" block in the form, and that this was corrected after the slash mark, resorted to because of that block's space limit, was deployed.

probation revocations.³ The court does not consider or rely on the probation report again urged to corroborate the Shepard-approved documents by the government. This report is outside the permissible scope of Shepard. The court declines also to draw any inference from count two of the California charging document, which pertains solely to another defendant.

The information charges this defendant with “the crime of SALE OR TRANSPORTATION OF MARIJUANA . . . [when he] did willfully and unlawfully transport, import into the State of California, sell, furnish, administer, and give away, and offer to transport, import into the State of California, sell, furnish, administer, and give away, and attempt to import into the State of California and transport marijuana.” (emphasis added.) Documentation contained in form 2 at line 57 of or relating to his arraignment and plea specifies defendant “PLEADS GUILTY WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) 11360.A H[EALTH] & S[AFETY] IN COUNT(S) 1.” After the word “GUILTY,” certain language has been crossed out and made unavailable to characterize defendant’s plea, entered upon withdrawal of a not-guilty plea.

³This four-page compilation, copied from microfiche or microfilm it would appear from records archived in the case now over twenty (20) years old, is difficult to read given the type size and quality of the images. Line by line, the documentation records a myriad of case activities in a staccato manner. The significance of the separate pages, discussed more particularly at hearing by the Probation Officer with deference to his California counterpart, appears unchallenged. There is no dispute that California state court processes resulted during the period in question in the making of this unified written record of defendant’s contacts with the criminal justice system, be the components properly termed “transcripts,” “judgments” or other. The compilation includes documentation of his arraignment and plea (form 2 containing block numbers 31 through 69), judgment and sentencing (form 3 containing block numbers 71 through 92), and probation violations and judgments thereon (form 4 containing block numbers 101 through 136). Documentation, if any other exists as a part of this unified record made in the Superior Court of California, County of Los Angeles, of or relating to activities in the case preceding this defendant’s March 9, 1989, arraignment and plea, i.e. a form with block numbers 1 through 30, and in the interval between his April 6, 1989, sentencing and his first probation violation on July 24, 1990, i.e. a form with block numbers 93 through 100, has not been made a part of the record in this case.

The information charges the conduct in the conjunctive. Five times the word “or” appearing in the statute is supplanted by the word “and” as contained in the charging document. Defendant entered a plea to the offense conduct as charged in count one. The court need not look any further to determine that defendant’s California conviction qualifies for the sixteen-level enhancement.

Defendant, however, urges the court to consider and rely on United States v. Vidal, 504 F.3d 1072 (9th Cir. 2007) (*en banc*), to reach a different conclusion. In Vidal, the Ninth Circuit used the modified categorical approach to assess the prior conviction at issue in the case and concluded that, under the circumstances presented, the defendant’s guilty plea to unlawful driving or taking of a vehicle did not establish the necessary factual predicate to qualify for an aggravated-felony enhancement. Id. at 1076. Vidal involved what is described therein as a West plea, sounding as a no contest plea, where a defendant is allowed to plead guilty without admitting the specific details of his conduct as charged. Id. at 1089. Vidal notes a predilection of California prosecutors specifically with regard to unlawful driving or taking of a vehicle offenses. Also, the court was concerned about the absence of certain documentation.

Defendant argues in reliance on that decision that charging in the conjunctive is the common practice of California prosecutors and, unless defendant pleads “guilty as charged,” the charging document cannot be said to establish a factual predicate for the conviction. Vidal does not recognize a state-wide practice of charging in the conjunctive for violations of § 11360. Id. at 1088 n. 27. Moreover, it appears certain documentation not available in that case is available to this court illuminating the plea.

The Shepard-approved documents in this case do not indicate defendant entered anything less than a straightforward plea of guilty to the crime charged in count 1.⁴ Shepard counsels and the Fourth Circuit reiterates that decision is to be made upon a careful reading of and with deference to terms as written. Upon review of the Shepard-approved documents in this case, and as the court found at hearing, defendant's prior conviction was for a drug trafficking offense. Defendant's plea of guilty to the offense charged in count one of the California indictment shows his plea was effective to the offense of selling and transporting marijuana. Accordingly, a sixteen-level enhancement under § 2L1.2(b)(1)(A) is appropriate.

It came to light at resentencing that this defendant while in the custody of BOP has been non-compliant with the law and prison rules in several significant ways. These include his receipt of and resort to a controlled substance, that is on separate occasions he was found in possession of drugs and a fermented concoction "brewed" within the prison confines. This conduct further informs his history and characteristics, propensity for recidivism, and the like.


As more particularly set forth at hearing, considering the purposes of sentencing, with due regard to the advice of the guidelines, and in consideration of the factors set forth in 18 U.S.C. § 3553, the court has determined a within guideline punishment remains appropriate but one that is six months longer than that term originally imposed. All other conditions of the court's judgment are renewed, with the added recommendation that this defendant be considered by BOP for the most intensive treatment program it can make available for someone suffering from addiction and dependency.

⁴In this case, one might quite reasonably conclude the words "NO CONTEST" are the ones struck following the word "GUILTY" at line 57.

CONCLUSION

For the foregoing reasons, the court overrules defendant's objection to the application of § 2L1.2(b)(1)(A) in his case. As memorialized in separate judgment entered herewith, the court sentences defendant to a period of incarceration of sixty-three (63) months. All other terms and conditions of the court's judgment are renewed and remain, with the added recommendation that this defendant be considered by BOP for the most intensive treatment program it can make available for someone suffering from addiction and dependency.

SO ORDERED this the 23rd day of February, 2010.



LOUISE W. FLANAGAN
Chief United States District Judge

APPENDIX

1. Information
2. Abstract of Judgment Filed October 18, 1990
3. Four Page Compilation of Case Records of the Superior Court of California, County of Los Angeles

INFORMATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff

Case No. A480149

v.

INFORMATION

Arrestment Date: 12/28/88

Department: SE J

MARVIN BEAN MAROQUIN, and
RAFAEL RAMOS HERNANDEZ

Defendant(s)

INFORMATION
SUMMARY

<u>Ct. No.</u>	<u>Charge</u>	<u>Charge Range</u>	<u>Defendant</u>	<u>Special Allegation</u>	<u>Alleg. Effect</u>
1	NS11360(a)	2-3-4	MAROQUIN, MARVIN BEA HERNANDEZ, RAFAEL RA		
2	NS11359	16-2-3	HERNANDEZ, RAFAEL RA		

The District Attorney of the County of Los Angeles, by this information alleges that:

COUNT 1

On or about November 11, 1988, in the County of Los Angeles, the crime of SALE OR TRANSPORTATION OF MARIJUANA, in violation of HEALTH AND SAFETY CODE SECTION 11360(a), a Felony, was committed by MARVIN BEAN MAROQUIN and

RAFAEL RAMOS HERNANDEZ, who did willfully and unlawfully transport, import into the State of California, sell, furnish, administer, and give away, and offer to transport, import into the State of California, sell, furnish, administer, and give away, and attempt to import into the State of California and transport marijuana.

COUNT 2

On or about November 11, 1968, in the County of Los Angeles, the crime of POSSESSION OF MARIJUANA FOR SALE, in violation of HEALTH AND SAFETY CODE SECTION 11359, a Felony, was committed by RAFAEL RAMOS HERNANDEZ, who did willfully and unlawfully possess for purpose of sale marijuana.

THIS INFORMATION CONSISTS OF 2 COUNT(S).

IRA REINER
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY:

Gerald G. Hancy
GERALD G. HANCY
DEPUTY DISTRICT ATTORNEY

/RMS

FILED

DEC 28 1968

FRANK J. REYNOLDS, COUNTY CLERK

P. Reinsmar
BY P. REINSMAR, DEPUTY

Filed in Superior Court,
County of Los Angeles

DATED: _____

ABSTRACT OF JUDGMENT FILED OCTOBER 18, 1990

ABSTRACT OF JUDGMENT - PRISON COMMITMENT SINGLE OR CONCURRENT COUNT FORM

FORM DSL 290

(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
BRANCH SOUTHEAST

COURT I.D.
190009

CASE NUMBER

PEOPLE OF THE STATE OF CALIFORNIA vs.
DEFENDANT: MARQUIN, MARVIN
AKA:

☒ PRESENT
☐ NOT PRESENT

A 480149

COMMITMENT TO STATE PRISON
ABSTRACT OF JUDGMENT

AMENDED
ABSTRACT ☐

FILED

OCT 18 1990
FRANK S. ZOLIN, COUNTY CLERK

Thompson
R. THOMPSON, DEPUTY

DATE OF BIRTH: <u>10-18-90</u>	DEPT. NO. <u>SEP</u>	JUDGE <u>R.W. ARMSTRONG</u>	CLERK <u>B. SMITH</u>
REPORTED BY: <u>R. ANDERSON</u>	COUNSEL FOR PEOPLE: <u>B. MARTINEZ</u>	COUNSEL FOR DEFENDANT: <u>R. RAMIREZ</u>	PROBATION NO. OR PROBATION OFFICER: <u>X 253781</u>

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY (OR ALTERNATE FELONY/MISDEMEANOR):

COUNT	CODE	SECTION NUMBER	P	CRIME	YEAR	DATE OF CONVICTION			CONVICTED BY		TIME IMPOSED	
						MO	DAY	YEAR	YR	MO	DAY	MONTH
1	HS	11360	P	sale/TRANSP MARIJUANA	88	03	09	89				0

2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.
For each count list enhancements horizontally. Enter time imposed for each as "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1380.
Add up time for enhancements on each line and enter line total in right-hand column.

Count	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER.

List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

4. OTHER ORDERS:

5. TIME STAYED § 1170.1(g) (DOUBLE BASE LIMIT):

6. TOTAL TERM IMPOSED:

7. ☐ THIS SENTENCE IS TO RUN CONCURRENT WITH ANY PRIOR UNCOMPLETED SENTENCE(S):

8. EXECUTION OF SENTENCE IMPOSED:

A. ☐ AT INITIAL SENTENCING HEARING B. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEAL C. ☒ AFTER REVOCATION OF PROBATION D. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d)) E. ☐ OTHER _____

9. DATE OF SENTENCE PRONOUNCED (MO) (DAY) (YR) <u>10-18-90</u>	CREDIT FOR TIME SPENT IN CUSTODY <u>352</u>	TOTAL DAYS INCLUDING: <u>235</u>	LOCAL CONDUCT CREDITS <u>117</u>	STATE INSTITUTIONS <input type="checkbox"/> DMH <input type="checkbox"/> CDC
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10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF TO BE DELIVERED:

☒ FORTHWITH INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT:
☐ AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS
☐ CALIF. INSTITUTION FOR WOMEN - FRONTERA ☐ CALIF. MEDICAL FACILITY - YACAVILLE ☒ CALIF. INSTITUTION FOR MEN - CHINO ☐ DEUEL VOC INST
☐ SAN QUENTIN
☐ OTHER (SPECIFY): _____

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

Thompson

DATE

OCT 19 1990

This form is prescribed under Penal Code § 1213.5 to satisfy the requirements of § 1213 for determinate sentences under Penal Code § 1170. Attachments may be used but must be referred to in this document.

ABSTRACT OF JUDGMENT - COMMITMENT
SINGLE OR CONCURRENT COUNT FORM

Form Adopted by the
Judicial Council of California
Effective April 1, 1990

Case 7:07-cr-00107-EL Document 49 Filed 02/29/10 Page 14 of 19
FORM DSL 290.1

**GOVERNMENT
EXHIBIT**

2

**FOUR PAGE COMPILATION OF CASE RECORDS
OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

Date MEMORANDUM	JUDGE Deputy Clerk	J. HARRIS	DEPT. CHIEF	Deputy Clerk Reporter
CASE NO. 145-147	(Parties and counsel checked if present)			
PEOPLE OF THE STATE OF CALIFORNIA VS JAMES EARL RAY		Counsel for People: DEPUTY DISTRICT ATTY: C. CHILSON		
CHARGE MURDER		Counsel for Defendant: J. HARRIS		
(BOX CHECKED IF ORDER APPLICABLE)				
NATURE OF PROCEEDINGS				
31	N. ASHAY is known as the English name INTERPRETER			
32	<input checked="" type="checkbox"/> DATA FILED PER SECTION 65565 GOVERNMENT CODE			
33	<input type="checkbox"/> DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 657.2 PENAL CODE/1088 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.			
34	<input type="checkbox"/> ON PEOPLE'S MOTION, ASSIGNMENT TO ADVISE INFORMATION FILED/INFORMATION ADVISED BY INTERVIEWER AS FOLLOWS.			
35	<input type="checkbox"/> ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNTED THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.			
36	<input type="checkbox"/> MOTION PURSUANT TO SECTION 685 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO			
37	<input type="checkbox"/> MOTION PURSUANT TO SECTION 1636.5 PENAL CODE CALLED FOR HEARING <input type="checkbox"/> MOTION SUBMITTED PER STIPULATION 41 BELOW.			
38	<input type="checkbox"/> DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PROBLEM NO.			
39	<input checked="" type="checkbox"/> CAUSE IS CALLED FOR TRIAL <input type="checkbox"/> CAUSE SUBMITTED PER STIPULATION 41 BELOW.			
40	<input checked="" type="checkbox"/> DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY <input checked="" type="checkbox"/> COURT ACCEPTS WAIVER(S).			
41	<input type="checkbox"/> By stipulation of defendant and all counsel leave is submitted on the testimony contained in the transcript of the proceedings held at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into in the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are retained in substance and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) submitted into evidence by defendant.			
42	Defendant waived and personally waived his right to participation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any attorney-client/privilege/parole status.			
43	<input type="checkbox"/> THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.			
44	<input type="checkbox"/>			
45	<input type="checkbox"/> ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.			
46	<input type="checkbox"/> MOTION PURSUANT TO SECTION 1636.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO			
47	<input type="checkbox"/> COURT FINDS DEFENDANT NOT GUILTY.			
48	<input type="checkbox"/> COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) LESSER INCLUDED/RELATED OFFENSE			
49	<input type="checkbox"/> PRE TRIAL CONFERENCE/TRIAL SETTING HELD/OFF CALENDAR/CONTINUED TO			
50	<input type="checkbox"/> THE DEFENDANT <input type="checkbox"/> THE PEOPLE ANNOUNCE(S) READY FOR TRIAL			
51	<input type="checkbox"/> ON PEOPLE'S/DEFENDANT'S/COURT'S MOTION, TRIAL/MOTION(S) IS SET/CONTINUED TO/REMAINS/TRIALED TO AT A.M. IN DEPT. REASON:			
52	<input type="checkbox"/> FURTHER CONTINUANCES WILL NOT BE GRANTED.			
53	<input type="checkbox"/> DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PLUS DAYS			
54	<input type="checkbox"/> CAUSE TRANSFERRED TO DEPT. <input type="checkbox"/> FORTHWITH <input type="checkbox"/> ON AT A.M. FOR			
55	<input checked="" type="checkbox"/> DEFENDANT/WHETHER(S) ORDERED TO RETURN ON ASSIGN-DATE: Arrow			
56	<input checked="" type="checkbox"/> DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REAPPROACHED.			
57	<input checked="" type="checkbox"/> PLEAS GUILTY/NOT-GUILTY/NO PLEA, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) 11360.1 PC 11360.1 LESSER INCLUDED/RELATED OFFENSE			
58	<input checked="" type="checkbox"/> DEFENDANT REFERRED TO PROBATION DEPARTMENT. <input type="checkbox"/> DEFENDANT WAIVES TIME FOR SENTENCE PROBATION AND SENTENCE HEARING SET AT 9 A.M. IN DEPARTMENT 525 REMAINING			
59	INCLUDING DISPOSITION OF COUNT(S) DETERMINATION OF PRIOR ALLEGED/RENEWED/NEW/OLD BOMB BOMB ALLEGATION(S)			
60	DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET) FURTHER ORDER AS FOLLOWS:			
61	THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE.			
62	DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.			
63	BAIL, IF POSTED, FORFEITED OR REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL			
64	NO BAIL BAIL FIXED AT \$			
65	DEFENDANT APPEARING BENCH WARRANT ORDERED RECALLED/QUASHED RECALL NO. WRITTEN ABSTRACT FILED			
66	UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTITUTED.			
67	REASSUMPTION FILED/COSTS PAID/RECENT NO. ORDER OF FORFEITING BAIL VACATED BAIL REINSTITUTED			
68	DEFENDANT'S MOTION FOR RELEASE ON B.R. REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO: REASON			
69	BAIL RESET AT \$			
70	REMAINED BAIL EXONERATED BOND NO. OR DISCHARGED IN CUSTODY OTHER MATTER			
71	RELEASING ORDER BENCH WARRANT			
72	MINUTES ENTERED			
73	COUNTY CLERK			
74	2 TRI. 1000			

Date 11/25/11

NAME
DATE

R. Zagon

Deputy Clerk
Reporter

CASE NO.	180242	(Parties and counsel checked if present)	Counsel for People	L. Christian
PEOPLE OF THE STATE OF CALIFORNIA	VS	Counsel for Defendant	L. Christian	
CHARGE	MAY 1971 253781			
NATURE OF PROCEEDINGS				
71	<input checked="" type="checkbox"/> Public Defender Appointed, D.P.S.	<input type="checkbox"/> OATH FILED PER SECTION 0900 GOVERNMENT CODE		
72	<input type="checkbox"/> Due to Conflict of Interests, Public Defender Relieved. Pursuant to Penal Code Section 097.3 GOVERNMENT CODE SECTION 21000			
73	<input type="checkbox"/> Alternative Defense Counsel			
74	<input type="checkbox"/> Criminal Proceedings Adjudicated/Dismissed			
75	<input type="checkbox"/> Defendant Ordered Delivered to Department of Corrections Per Section 1202.00 Penal Code			
76	<input type="checkbox"/> On			
77	<input type="checkbox"/> Defendant Personally and All Counsel Waive Time for Sentencing			
78	<input type="checkbox"/> Defendant Ordered to Return			
79	<input type="checkbox"/> Defendant Ordered to Return			
80	<input type="checkbox"/> Defendant Ordered to Return			
81	<input type="checkbox"/> Defendant Ordered to Return			
82	<input type="checkbox"/> Defendant Ordered to Return			
83	<input type="checkbox"/> Defendant Ordered to Return			
84	<input type="checkbox"/> Defendant Ordered to Return			
85	<input type="checkbox"/> Defendant Ordered to Return			
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93	<input type="checkbox"/> Defendant Ordered to Return			
94	<input type="checkbox"/> Defendant Ordered to Return			
95	<input type="checkbox"/> Defendant Ordered to Return			
96	<input type="checkbox"/> Defendant Ordered to Return			
97	<input type="checkbox"/> Defendant Ordered to Return			
98	<input type="checkbox"/> Defendant Ordered to Return			
99	<input type="checkbox"/> Defendant Ordered to Return			
100	<input type="checkbox"/> Defendant Ordered to Return			

4 MISC. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES **FIRST**

DATE MAY 24 1970 **RSJ J. H. 64** DEPT. A RAJCHWAZ ST. J. Deputy Clerk

NON-RECEIVED 403 0-10000-00000-00 0-10000-00000-00 0-10000-00000-00

CASE NO. **4400149-01** Parties and counsel checked if present

PEOPLE OF THE STATE OF CALIFORNIA vs **01 MARQUIN PAVEN BRAN** Charged by Public DEPUTY DISTRICT ATTY. **W. Pruhay**

M1340-A CHARGE **01CTS** Charged to Defendant **HARVIS CPO**

DO NOT CHECK IF ORDER APPLICABLE

NATURE OF PROCEEDINGS **Under the Rules** **VIOL AER 2071044** **Spanish**

101 ☒ PUBLIC DEFENDER APPOINTED, D.A.B.

102 ☐ DUE TO COMPLAINT OF DEFENDANT, PUBLIC DEFENDER RELIEVED. PURSUANT TO PENAL CODE SECTION 87.3, GOVERNMENT CASE NUMBER 2000.

103 ☐ ALTERNATE DEFENSE COUNSEL. IS APPOINTED.

104 ☒ DEFENDANT IS ADVISED OF RIGHTS RE HEARING ON VIOLATION, DEFENDANT ADVICE VIOLATION OF PROBATION AND WAIVES RIGHTS TO REQUEST HEARING.

105 ☒ DEFENDANT IS FOUND TO BE IN VIOLATION OF PROBATION.

106 ☒ PROBATION IS REVOKED / RECOMMENDED SENTENCE IMPRISON AS FOLLOWS:

☐ SENTENCE PREVIOUSLY IMPOSED PLACED IN FULL FORCE AND EFFECT.

☒ IMPRISONED IN STATE PRISON / RECOMMENDED SENTENCE FOR **1 mo** TERM OF **3 yrs**, **SUSPENDED**

107 ☒ PROBATION REVOKED / RECOMMENDED SENTENCE IMPRISON AND CONDITIONS, IMPRISONED / RECOMMENDED SENTENCE

108 ☐ PROBATION REVOKED FOR A PERIOD OF _____ YEARS (SEE CONDITIONS BELOW ATTACHED)

109 ☐ PROBATION IS EXTENDED TO _____

110 ☐ OR _____ MOTION, FURTHER PROCEEDINGS CONTINUED TO _____ AT _____ A.M. IN DEPT. _____ (NON-APPEARANCE CALENDAR)

111 ☐ DEFENDANT INSTRUCTED TO RETURN ON ABOVE DATE.

112 ☐ REPLACEMENT PROBATION REPORT IS ORDERED.

113 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL, WAIVE THE FOR

114 ☒ FURTHER ORDER AS FOLLOWS: **Defendant sentence to County Jail for 34 days.**

115 ☐ SENTENCE/COUNTS TO RUN CONSECUTIVELY/CONCURRENTLY WITH _____

116 ☒ DEFENDANT TO K. INCH CREDIT FOR **34** DAYS IN CUSTODY (INCLUDES **11** DAYS GOOD TIME/WORK TIME **23**)

117 ☐ COURT ADVISED DEFENDANT OF HIS APPEAL/PAROLE RIGHTS.

118 ☐ SHERIFF IS ORDERED TO ALLOW DEFENDANT _____ PHONE CALLS AT DEFENDANT'S EXPENSE.

119 ☐ GENERAL PROCEEDINGS ADJUDICATED.

120 ☐ DEFENDANT ORDERED DELIVERED TO DEPARTMENT OF CORRECTIONS PURSUANT TO SECTION 12040 PENAL CODE.

121 ☐ FURTHER PROCEEDINGS CONTINUED TO _____ AT _____ A.M. IN DEPT. _____

122 ☐ EXECUTION OF SENTENCE IS SUSPENDED. PETITION ORDERED FILED IN DEPARTMENT IS PURSUANT TO SECTION 351 WELFARE AND INSTITUTIONS CODE. FURTHER PROCEEDINGS CONTINUED TO _____ AT 10:00 A.M. IN DEPARTMENT 00.

123 ☐ COUNSEL AND DEFENDANT ARE ORDERED TO APPEAR IN DEPARTMENT 00 ON THE ABOVE DATE.

124 ☐ FURTHER PROCEEDINGS CONTINUED TO _____ AT 9:00 A.M. IN THIS DEPARTMENT.

125 ☐ DEFENDANT HAVING BEEN COMMITTED BY DEPARTMENT 00 PURSUANT TO SECTION 351 WELFARE AND INSTITUTIONS CODE, U.S.A. NUMBER _____ MATTER IS ORDERED OFF CALENDAR.

126 ☐ PURSUANT TO SECTION 17 PENAL CODE, OFFENSE IS DEEMED TO BE A MISDEMEANOR.

127 ☐ PROBATION IS ORDERED TERMINATED PURSUANT TO SECTION 12043 PENAL CODE.

128 ☐ PLEA OF GUILTY OR CONVICTION IS SET ASIDE, A PLEA OF NOT GUILTY IS ENTERED, CASE IS ORDERED PURSUANT TO SECTION 12044 PENAL CODE.

129 ☐ ORDER OF _____ GRANTING _____ DAYS GOOD TIME/WORK TIME CREDITS IS ORDERED VACATED. DEFENDANT NOTIFIED BY U.S. MAIL.

130 ☐ DEFENDANT'S EX PARTE REQUEST / MOTION FOR _____ IS DENIED/GRANTED. DEFENDANT NOTIFIED BY U.S. MAIL.

131 ☐ DEFENDANT FAILS TO APPEAR WITHOUT SUFFICIENT EXCUSE.

132 ☐ BAIL, IF POSTED, FORFEITED & REVOKED, BENCH WARRANT ORDERED ISSUED/RECALLED/AND HELD UNTIL _____ NO BAIL / BAIL PAID AT _____

133 ☐ BENCH WARRANT RECALLED/REVOKED: (RECALL) _____ ISSUED _____ WARRANT / ABSTRACT FILED.

134 ☐ UPON PAYMENT OF \$ _____ COSTS BEFORE _____ COSTS HAVING BEEN PAID FULLY, (RECEIPT) _____ ORDER OF _____ FORFEITING BAIL IS TO BE VACATED AND BAIL RE-ORDERED.

135 ☐ CERTIFICATE OF WAIVING EXECUTION AND FILED NOTICE WAIVED.

136 ☐ DEFENDANT'S MOTION FOR RELEASE ON BAIL / RESCUER OF BAIL IS GRANTED-DENIED REASON _____

137 ☐ BAIL RESET AT _____

☐ REMANDS ☐ BAIL ☐ BAIL EXON ☐ BOND NO

☐ RELEASED ☐ O.R. ☐ O.R. DISCHARGED ☐ IN CUSTODY OTHER MATTER

☐ BENCH WARRANT ☐ MINUTE ORDER ☒ ON PROBATION

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